



U.S. Department  
of Transportation

Research and  
Special Programs  
Administration

400 Seventh Street, S.W.  
Washington, D.C. 20590

AUG 15 1990

Mr. Samuel S. Elkind  
Air Transport Association  
1709 New York Avenue, NW  
Washington, DC 20006-5206

Dear Mr. Elkind:

This is in response to your letter of June 4, 1990, concerning whether the quantity limitations in 49 CFR 175.75 apply to materials classed as ORMs under Title 49 when those materials are classed and described differently under the ICAO Technical Instructions.

For materials transported in conformance with the ICAO Technical Instructions, Variation US-19 excepts materials which are defined in 49 CFR 173.500 as "Other Regulated Materials" from the 50-pound quantity limitation. This exception includes materials which are eligible for reclassification as an ORM-D (see 49 CFR 173.1200 or § 173.1201). Therefore, as you state, ORM materials may be loaded in excess of 50 pounds in an inaccessible cargo compartment.

We trust this answers your question. Let us know if we can be of further assistance.

Sincerely,

Edward T. Mazzullo  
Chief, Standards Division  
Office of Hazardous Materials  
Transportation

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# Air Transport Association



OF AMERICA

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Washington, DC 20006-5206  
Phone (202) 626-4000



June 4, 1990

Mr. Edward Mazzullo  
Chief, Standards Division  
Office of Hazardous Materials Transportation  
Research and Special Programs Administration  
U.S. Department of Transportation  
400 Seventh Street, SW - DHM-10  
Washington, D.C. 20590

Dear Mr. Mazzullo:

On behalf of our member airlines, we write for an interpretation of the quantity limitations aboard aircraft, which are contained in 49 CFR 175.75, as applied to operations conducted in compliance with the ICAO Technical Instructions under the conditions of 49 CFR 171.11. Requirements parallel to those in Section 175.75 are filed with ICAO as U.S. state variation US 19.

In 175.75(a), the total amount of hazardous materials that may be loaded aboard a passenger aircraft in an inaccessible cargo compartment or any one freight container within a cargo compartment is limited to 50 lbs net weight (and, in addition, 150 lbs net weight of non-flammable compressed gas). The same limits are applied to hazardous materials loaded aboard cargo-only aircraft in such a way that the materials are inaccessible, unless they are contained in a freight container. The requirements of 175.75(a) are excepted at 175.75(b) for ORM materials.

The issue that we seek to resolve is whether a material that is eligible to be classed as an Other Regulated Material (ORM) under the DOT Hazardous Materials Regulations may be excepted from the loading limits of 49 CFR 175.75 and Variation US 19, even when the material is shipped under the ICAO shipping description. We believe that there is no safety reason to prevent materials shipped under ICAO but known to be ORMs from being loaded in excess of 50 lbs in an inaccessible cargo compartment. However, the language in the regulations does not address this point directly.

For example, calcium oxide, UN1910, is shown in the ICAO Technical Instructions as a material in Class 8, while under 49 CFR 172.101 it is classed as an ORM-B. In view of the fact that this material is considered by DOT to be an Other Regulated Material, the loading of more than 50 lbs of the substance into an inaccessible cargo compartment seems

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to be perfectly acceptable, regardless of whether the package is prepared as an ORM-B or a material in Class 8, but to our knowledge the permissibility of doing so has not been established in writing. We could easily find many other examples of materials that are classed as Other Regulated Materials by DOT in Section 172.101 but which under ICAO have distinct, "higher" hazard classes: acetaldehyde ammonia, UN1841; ammonium fluoride, UN2505; ammonium hydrogen sulfate, UN2506; ammonium polysulfide solution, UN2818; naphthalene, UN1334; etc. In each such case, we wonder whether it is permissible, in RSPA's view, to load in excess of 50 lbs of the materials into an inaccessible cargo compartment when they are shipped under ICAO.

The same question comes up in relation to those materials which are eligible for reclassification as ORM-D materials under either Section 173.1200 (consumer commodities) or Section 173.1201 (small arms ammunition). Many consumer commodities are shipped under ICAO Class 2 (e.g., aerosols) or Class 9 (e.g., Drugs or medicines, n.o.s.). And many types of small arms ammunition are shipped under ICAO as "Cartridges for weapons, 1.4S, UN0012." If such materials are eligible under the HMR to be transported as ORM-D materials, would a carrier be permitted to load the materials in excess of 50 lbs into inaccessible cargo compartments? If they are the same consumer commodities or cartridges that are eligible for reclassification under 173.1200 or 173.1201, then there can hardly be a safety argument against loading of these articles in excess of 50 lbs. In some cases shippers actually have ORM markings on such packages, clearly indicating that they are transported in other situations (e.g., domestic surface distribution) as Other Regulated Materials.

There seems to be precedent for the interpretation we seek. With dry ice, UN1845, the 50-lb limit clearly does not apply when the material is shipped as an ORM-A. And when it is transported under ICAO as a material in Class 9, we see no concern from RSPA or FAA to limit the loading to 50 lbs; rather, U.S. officials are comfortable with the standard shown in ICAO 5.2.11 of 200 kg per compartment, which repeats the limit given at 49 CFR 173.615(d) of 440 lbs per pit or bin. Here, then, is a common example of a material which is an ORM that, under international standards, is understood to have no 50-lb loading limit under 49 CFR 175.75 or Variation US 19. Moreover, in the Notice of Proposed Rulemaking in Docket HM-181B, we see that the proposed amendments to Section 175.75 would include materials in Class 9 under the exception granted at 175.75(b), a proposal that adds further weight to our belief that the interpretation of 175.75 which we seek is, in fact, correct. We wish to have DOT's confirmation that we are correct in believing when a carrier is accepting materials classed in accordance with the ICAO Technical Instructions, it is permissible to extend the exception to 175.75 (US 19) from this specific example of dry ice to other commodities which are classed in 172.101 or are eligible to be reclassified under 173.1200 or 173.1201 as ORM materials.

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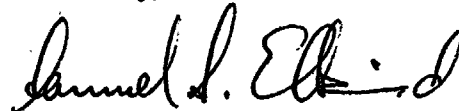
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There are many situations in which carriers face difficulties posed by the lack of a clear interpretation of this question, and therefore we look forward to your reply. If you wish to discuss the matter, please feel free to contact me at (202) 626-4131. Thank you in advance for your attention to this question.

Sincerely,



Samuel S. Elkind

Secretary

ATA Dangerous Goods Board

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